

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**DERICK ANDRE LOWERY,**

**Plaintiff,**

**v.**

**RODNEY GILSTRAP,**

**Defendant.**

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**CIVIL ACTION NO. 6:18-CV-00473-RWS**

**ORDER**


Plaintiff Derick Andre Lowery initiated this civil action on September 12, 2018. Docket No. 1. The case was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation recommending that the case be dismissed for failure to obey a court order and failure to prosecute. Docket No. 5. The Report and Recommendation was sent to Plaintiff at his address of record and returned as undeliverable on January 7, 2019. Docket No. 6. Plaintiff has not updated his address with the Court. As a result, Plaintiff has not filed any objections to the Report and Recommendation. Accordingly, he is not entitled to *de novo* review by the District Judge of those findings, and except upon grounds of plain error, he is barred from appellate review of the factual findings and legal conclusions adopted by the District Court. 28 U.S.C. § 636(b)(1)(C); *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

Therefore, the Court hereby **ADOPTS** the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. *See United States v. Raddatz*, 447 U.S. 667, 683 (1980) (“[T]he statute permits the district court to give to the magistrate’s proposed findings

of fact and recommendations ‘such weight as [their] merit commands and the sound discretion of the judge warrants,’ ”) (quoting *Mathews v. Weber*, 23 U.S. 261, 275 (1976)). It is accordingly

**ORDERED** that the complaint is hereby **DISMISSED WITHOUT PREJUDICE**.

**SIGNED this 28th day of January, 2019.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE